

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RAYMOND McCOY,

Petitioner,

v.

PAT GLEBE,

Respondent.

CASE NO. C10-957MJP`

ORDER ON REPORT AND  
RECOMMENDATION & MOTION  
FOR CERTIFICATE OF  
APPEALABILITY

The above-entitled Court, having received and reviewed

1. Magistrate Judge's Report and Recommendation (Dkt. No. 26)
2. Respondent's Motion to Expand the Record (Dkt. No. 16)
3. Petitioner's Motions to Stay Proceedings, Expand the Record, Strike and Compel Disclosure, and Objecting to the Court's Magistrate Judge Report and Recommendation (Dkt. Nos. 18, 19, 21, 27)
4. Petitioner's Motion to Grant Certificate of Appealability (Dkt. No. 28)

and all attached declarations and exhibits, makes the following ruling:

IT IS ORDERED that the Report and Recommendation is ADOPTED.

1 IT IS FURTHER ORDERED that Respondent's motion to expand the record (Dkt. No.  
2 16) is GRANTED.

3 IT IS FURTHER ORDERED that Petitioner's motions (Dkt. Nos. 18, 19, 21) are  
4 DENIED as moot.

5 IT IS FURTHER ORDERED that Respondent's motion to dismiss is GRANTED and  
6 Petitioner's § 2254 habeas petition is DISMISSED with prejudice.

7 IT IS FURTHER ORDERED that Petitioner's motion for a certificate of appealability is  
8 DENIED.

9 **Discussion**

10 Petitioner does not even contest that the mandate of Stone v. Powell, 428 U.S. 465 (1978)  
11 is applicable to the facts of his case; that he has not only had the opportunity, but in fact has  
12 "fully and fairly" litigated his Fourth Amendment claims in state court. Having failed to  
13 demonstrate that the state courts have precluded him from litigating his constitutional claims,  
14 Petitioner is barred from pursuing them in federal court. The fact that he continues to be  
15 dissatisfied with the results of his state court proceedings does not afford him grounds for the  
16 relief he seeks.

17 The Court grants Respondent's motion to expand the record because the authenticity and  
18 content of the requested documents are unchallenged and consist entirely of state-court records.  
19 Petitioner's remaining motions are moot in light of the dismissal of his habeas petition, and the  
20 Court denies them on that ground.

21 Because no reasonable jurist would disagree with the application of Stone v. Powell to  
22 the facts of this case, Petitioner's request for a certificate of appealability will likewise be denied.

1 **Conclusion**

2       Petitioner's habeas corpus petition is DISMISSED with prejudice and his remaining  
3 motion are dismissed as moot. Respondent's motion to expand the record is GRANTED.  
4 Petitioner's motion for certificate of appealability is DENIED.

5  
6       The clerk is ordered to provide copies of this order to Magistrate Judge Tsuchida, to  
7 Petitioner and to counsel.

8       Dated December 15, 2010.

9  
10  
11 

12 Marsha J. Pechman  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24